

APPEAL NO. 041551
FILED AUGUST 20, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 8, 2004. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the third quarter. The appellant (carrier) appeals the determination on sufficiency of the evidence grounds. There is no response from the claimant in the file.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer on that issue.

The hearing officer did not err in determining that the claimant is entitled to third quarter SIBs. Section 408.142 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) establish the requirements for entitlement to SIBs. At issue was whether the claimant made a good faith job search commensurate with his ability to work and whether his unemployment was a direct result of the impairment from the compensable injury. In this case, the claimant presented evidence of an inability to perform work in any capacity. The carrier presented a surveillance video which showed the claimant engaging in some activities. The carrier also argued that the claimant's cardiac problems, which prevent additional surgery, are an intervening cause for the unemployment. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). In view of the applicable law and the evidence presented, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

CONCUR IN THE RESULT:

Margaret L. Turner
Appeals Judge